

Amendments To The Drawings:

None

Remarks

This Amendment is in response to the Final Office Action dated **April 16, 2007**.

This Amendment accompanies a Request for Continued Examination (RCE). The claims have been amended to correct the inadvertent use of "Means" which resulted in a §112 rejection. Applicant appreciates the opportunity to correct this oversight.

Claims 1-15, 18-23 §102(b) Clark

Claims 1-15 and 18-23 were previously rejected as being anticipated by Clark, U.S. Design Patent D401704. As amended, the claims are clearly neither anticipated nor obvious over Clark. First, the amended claim 1 requires that the top opening formed by the continuous wall extending up from the base be unobstructed. In Clark, there is a crossbar, used for wiping, which obstructs the top opening. Note that the use of the cross bar to wipe the brush is disclosed at the description of Figure 2 of Clark. Also, note that there is no evidence in Clark that the crossbar can be removed. Therefore, there is nothing to suggest that the crossbar of Clark can be removed to create an unobstructed opening.

In addition, claim 1, even prior to the current amendment, required that the tongue portion be "sized, shaped and positioned... to permit said excess liquid to drain into said dipping section." In Clark, the dipping section is contained within the inner container. According to the Office Action, the portion of the outer container that extends upward from the inner container constitutes a tongue portion. However, assuming the brush is dabbed on the outer container extending upward from the inner container, the paint will not necessarily drain into the dipping section. Rather, the paint will reach the lip at the top of the inner container and get caught there.

In Clark, a crossbar is specifically provided for dabbing the brush. It would be clear to any person skilled in the art that the portion of the outer container extending upward from the inner container is not present for the purpose of dabbing the brush. The claims require the tongue portion to be sized, shaped and positioned to permit the brush to be dabbed thereon. There is no suggestion in Clark that the portion of the outer container that extends upward from the inner container is sized, shaped and positioned for dabbing. The rejection is respectfully traversed by the amendments to the claims and the arguments noted.

Claims 1-2, 8-11, 12-21 §102(b) Cooke

Claims 1-2 and 8-21 were rejected as being anticipated by Cooke et al., U.S. Patent D248335. Regarding Cooke et al., claim 1 has been amended to clarify still further that the container includes gripping members sized, shaped and positioned to permit gripping by placing the thumb of a hand on one gripping member and the fingers of the same hand on the other gripping member. There is no suggestion of this feature found in Cooke et al. In fact, as previously discussed, it is almost certainly the case that the wire handle is provided in Cooke et al. specifically because it is too wide to be gripped without the wire handle.

Applicant amended the claims in response to the Office Action of November 3, 2006 and made arguments as to why they were now patentable. Surprisingly, the current Office Action merely states "the rejection is explained in the previous Office action mailed November 3, 2006." However, this does not make reference to the claim amendments or arguments made in response to that Office Action.

To reiterate, the undersigned spoke with the Supervising Attorney and the last amendment stated:

"Mr. Stashick and I discussed that the Cooke reference could be grasped, but that it would either take both hands or would fall if paint was in the container. Since claim 1 had language that could allow it to be perceived as being like Cooke, the claim has been amended.

As amended, claim 1 now requires that the gripping members are formed in the wall on opposing sides of the container with paint in the container therebetween. The gripping members are gripped with a thumb on one member and fingers on the other member. In marked contrast, the Cooke has two separate, formed tabs that extend out from the main body. In theory, the tabs could be grasped with a single hand. However, it should be immediately obvious that if paint was in the container that no user could grip the container as the center of gravity would force it to torque and twist away, spilling the paint. Thus, the two tabs in Cooke are not in fact "grippable members" especially as now defined which specifies that paint is therebetween."

The Applicant previously noted that the Cooke teaching could not be used to reject the claims based on the Office Action's reading of its so-called tabs. It was pointed out, *arguendo*, that if those were the tabs of Cooke that they could never be grasped and hold the container filled with paint without torquing out and spilling all of the paint. Claim 1 is limited to a container that can be grasped with a single hand. The rejection is respectfully traversed.

Claims 1-4, §102(e) Bebak

Claims 1-4 are again simply rejected as being anticipated by Bebak, U.S. Patent

6419106 without any explanation of why the previous arguments were not convincing. To recap, "note that as amended, the claims cannot be anticipated nor obvious over Bebak, since its "grippable member" is simply an external handle 12 which is not met by the claim limitations." How can the same rejection be applied without any reference to the arguments made? Please reconsider the arguments made and withdraw this rejection as well.

Claims 16, 17 §103(a) Clark

Claims 16 and 17 are rejected as being obvious over Clark. The invention is not simply a tongue with a specified size, but includes all of the features of claim 1, which specifies the unique gripping members and arrangements. This is completely different from Clark, which cannot be modified to present the invention of claims 16 and 17 without the use of hindsight. The rejection is respectfully traversed.

Claims 2-4, §103(a) Cooke

Claims 2-4 specify the construction of the paint container. They add further limitations to the paint container as to where the grippable members are situated to prevent the torque that would otherwise make the container difficult to hold if filled with paint. The rejection is traversed.

Claims 5-7, §103(a) Bebak view Pereira Da Silva

Bebak's so called "grippable member" is simply an external handle 12 which is not met by the claim limitations. The secondary reference Da Silva is cited for its handle. Yet there is no reason one of ordinary skill in the art would remove the external handle or Bebak and replace

it with that of Da Silva unless one was to have read the present application and use hindsight to re-make applicant's invention. The rejection is respectfully traversed.

Conclusion

It is respectfully submitted that each of the claims, as amended, are patentable over any combination of the references cited. An early notice to that effect is respectfully requested.

Respectfully submitted,

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